



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

MEMORANDUM

**TO:** Barry E. Hill, Director, Office of Environmental Justice ("OEJ")  
Office of Enforcement and Compliance Assurance ("OECA")

**FROM:** Theodore J. Kim, Legal Counsel, OEJ/OECA /s/ *Ted Kim*

**DATE:** June 22, 2006

**RE:** "Environmental Justice in the News" for the Week Ending June 23, 2006  
=====

This memorandum summarizes select environmental justice news actions for the period beginning May 11, 2006 through the week ending June 23, 2006. The summary is limited to Lexis/Nexis searches conducted using the query: "(environment! w/2 (justice or racism or equity or disproportionate or disparate)) or (environment! w/25 minorit! or low\*\*\*income) or (executive order 12898) or (civil right! w/25 environmental) or ("fair housing act" w/25 (environment! or zon!))." Please note that multiple articles covering the same topic were not included. Similarly, articles on international or foreign-based environmental justice issues were not included, unless they specifically pertained to the United States.

1. **News Items.**

The following news was particularly noteworthy:

- **"Panel May Ask EPA to Review Gentrification Impact of Cleanups," Inside EPA (June 19, 2006).** According to the article, the National Environmental Justice Advisory Committee ("NEJAC") will review a May 15, 2006 draft report, entitled "Unintended Impacts of Redevelopment and Revitalization Efforts in Five Environmental Justice Communities," at a June 20, 2006 meeting in Washington D.C. Among other things, the NEJAC plans to request that the United States Environmental Protection Agency ("EPA") "examine whether the brownfields redevelopment projects contribute to neighborhood gentrification." The report articulated that "'EPA may have unintentionally exacerbated historical gentrification and displacement. EPA funds have been used with impunity to continue private development/profitteering at the expense of low-income residents.'" As a result, the report calls for more "meaningful" public comment at all

stages for local residents and notes that “[i]t is central to the notion of environmental justice that no population bear the impact of disproportionate exposure to environmental toxins. In the same spirit, no population should consistently pay a disproportionate price for the cleanup and revitalization of the neighborhoods in which they live.” The NEJAC also plans to discuss other issues at the meeting, including a broader draft report on the future of environmental justice at EPA. According to the article, this discussion stems from “long-term questions about whether EPA may seek to disband or streamline the NEJAC due in part to budget constraints.” The NEJAC’s charter expires in September 2006. The meeting will also include discussion on the draft report on disaster response procedures to better address vulnerable populations. (See related article on page 10).

- **“IG Agrees to Landmark Environmental Justice Study at Failed Cleanup,” Inside EPA (June 16, 2006).** According to the article, EPA’s Acting Inspector General (“IG”) is investigating for the first time “whether EPA ‘properly’ considered environmental justice issues at a failed Superfund cleanup” at the Ringwood Mine Superfund Site (“Site”) in Ringwood, New Jersey. EPA’s IG, Bill A. Roderick, sent letters, dated June 6, 2006, to Congressman Frank Pallone (D-N.J.) and Senators Frank Lautenberg (D-N.J.) and Robert Menendez (D-N.J.) that announced his intent to investigate the Site, which some believe may change how EPA will consider environmental justice at other similar waste sites. The IG intends to issue two reports on the Site by early 2007, including one that will “focus on whether racial, cultural, or socioeconomic factors have any bearing on the investigation and cleanup of the Ringwood Site, as well as EPA Region II’s community relations activities pertaining to the Site.” According to a spokesman for the IG, the “investigation into whether the racial, cultural, or socioeconomic makeup of the nearby community had any ‘bearing’ on the investigation and cleanup is a first time effort by the IG to address such concerns at an individual site.”
- **“Stadium Plan Angers Residents,” News & Record (Greensboro, N.C. June 15, 2006) at A1.** According to the article, a plan to demolish the former J.C. Price School in Greensboro, North Carolina, and replace it with a sports park with a football stadium for Greensboro College has angered some residents in the area. Specifically, the residents, who are predominantly African-American, believe that the new park will result in increased traffic, noise, and trash. Accordingly, the residents assert that these adverse impacts represent environmental racism.
- **“Hurricane Preparedness Information in Spanish,” States News Service (June 14, 2006).** The article set forth a press release in which EPA announced that it “has launched a new hurricane preparedness Web page in Spanish to provide information to Spanish speakers and Hispanic businesses nationwide.” The hurricane preparedness information can be

found at: [epa.gov/espanol/huracanes.htm](http://epa.gov/espanol/huracanes.htm). The press release noted that early preparations during hurricane season can minimize injury and property damage. It concluded by recommending that households and businesses plan and prepare for hurricanes well in advance of the hurricane season.

- **“House Committee Kills Bill to Allow Closing of Landfill; State Says Chef Site Is Needed for Storm Stuff,” Times-Picayune (June 13, 2006) at 5.** According to the article, Louisiana’s House Environment Committee (“House”) rejected legislation that would “have allowed closing the Chef Menteur Landfill (“Landfill”) if sufficient capacity for hurricane debris was available at other local dumps.” The House killed Senate Bill 718 (“Bill”) on June 12, 2006, which would have allowed parishes in New Orleans to develop local waste plans to deal with hurricane debris. Accordingly, the Bill would have closed any landfill opened under an emergency order, like Chef Menteur, within 30 days “unless the parish waste plan . . . specifically allowed the facility to remain open.” The Landfill opened in April with the emergency authorization from the Louisiana Department of Environmental Quality (“DEQ”), among others, despite the environmental justice concerns of local residents who are mostly minority. Village de l’Est represents the closest neighborhood, and the residents are mostly Vietnamese, “while eastern New Orleans as a whole is majority African-American.” However, DEQ countered that argument by noting that “the town of Waggaman surrounding an existing landfill on the West Bank that takes hurricane debris also is home to a majority-minority population.” In rejecting the Bill, the House apparently agreed with DEQ. (See related articles on page 12 and 16).
- **“Despite Fix, Landmark San Francisco Mercury TMDL Facing Criticism,” Water Policy Report (June 12, 2006).** According to the article, environmentalists in California continue to raise concerns over a mercury cleanup plan “for the San Francisco Bay that would encourage the creation of a novel mercury water quality trading scheme, the Nation’s first, even though regulators have modified the plan to also require stricter discharge limits from publicly owned treatment works (“POTWs”).” The revised cleanup plan, known as the total maximum daily load (“TMDL”), would require POTWs to reduce mercury discharges by 20 percent after 10 years and 40 percent after 20 years. POTWs believe that this reduction in discharges cannot occur without an offset or trading program. However, environmentalists “still object to the TMDL’s ‘offset’ language, saying it provides an ‘out’ for POTWs.” One of the concerns that environmentalists have with an offsets provision within the TMDL is that “a trading program could create hotspots of the bioaccumulative toxic” that, among other things, does not address environmental justice concerns of disparate impacts. These environmentalists noted that “pollutant trading and offsets have historically been controversial, in part because they have often been used in a manner that could shift health and

environmental burdens on to impoverished communities and communities of color.”

- **“Tour Touts Ongoing Fort Ord Cleanup,” Monterey County Herald (CA June 11, 2006).** According to the article, the Army’s Base Realignment and Closure Office at Fort Ord, California provided guided tours of its 28,000 acre site on June 10, 2006 to tout its environmental cleanup efforts. While the Army was pleased by its work, it acknowledged that much more work remained, with groundwater contaminated by carbon tetrachloride representing “one of the most difficult and controversial cleanup problems.” To address this groundwater issue, the Army prepared four proposals. The Fort Ord Environmental Justice Network (“Network”) endorsed one of the proposals, but remained concerned with the Base’s health effects on local residents. In addition, the Network criticized the Army due to the lack of information available on the decision-making process. Specifically, it noted that distrust and a lack of communication between the residents and the Army hampered the cleanup efforts.
- **“Watchdog To Take Closer Look at Ford Cleanup,” Record (Bergen County, N.J. June 9, 2006) at L11.** The editorial discusses EPA’s Inspector General’s decision to determine whether “racial, cultural, or socioeconomic factors” led EPA to provide less service to the Ramapough Mountain Indian Community at the Upper Ringwood Dumpsite (“Site”) in New Jersey. The editorial posited that EPA did not use its “maximum firepower” in removing industrial wastes at the Superfund Site and showed “more favoritism to Ford than toward the people who needed its protection from the toxic nightmare” by allowing the Site to be removed from the National Priorities List in 1994. Although the author noted that EPA was reviewing itself, he asserted that the OIG “has a level of independence --- and subpoena power --- that opens the way to a deeper probe than one conducted by the EPA’s Region Two Environmental Justice Team.” Region Two’s Environmental Justice Team conducted a similar review last year to substantiate complaints of environmental racism at the Site; however, it concluded that not enough evidence existed for any definitive conclusions. Specifically, Region Two found that no reference community comparable to the Ramapoughs existed, such that no basis existed to determine that the Upper Ringwood residents carried a “disproportionate burden.” The author took issue with this finding in noting the “uniqueness of the Ramapough community” and concluded that the “OIG isn’t likely to circle the wagons and come up with the kind of bureaucratic dodge ball that the Region Two office passed off as an environmental justice report.” (See related article on page 19).
- **“Irked Environmentalists Quit WRCB Sediment Standards Panel,” Inside Cal/EPA (June 9, 2006).** According to the article, environmentalists on California’s Water Resources Control Board

(“Board”) Sediment Quality Objectives Advisory Committee (“Committee”), which sets sediment quality objectives for bays and estuaries, resigned on May 26, 2006 citing, among other things, a “lack of scientific rigor.” Specifically, the environmentalists complained about the Committee’s direction and claimed that the Board ignored their prior written comments about its direction. The environmentalists specifically pointed out communications regarding, among other things, unspecified environmental justice issues that went unanswered for months.

- **“Environmentalists Blast DPR EJ Pesticide Monitoring Project,” Inside Cal/EPA (June 9, 2006).** According to the article, environmentalists have criticized California’s Department of Pesticide Regulation (“DPR”) for its analysis of pesticide air monitoring data in a new environmental justice pilot project. The criticism stemmed from the DPR’s perceived failure to use an important health risk factor that would expose potential health risks of pesticide exposure to children. DPR’s pilot project, which examines whether residents in farming communities are exposed to airborne pesticides at levels above those of concern to human health, focuses on the town of Parlier, which has a population of just over 11,000 people. Parlier was selected for the environmental justice project, which was one of six pilot projects within California Environmental Protection Agency’s (“Cal-EPA”) environmental justice action plan, due to its: large population of residents under 18 years old; low family income; and susceptibility to pesticide drift illness. Environmentalists criticize DPR’s project, because it fails to account for additional protection factors that EPA has established for children. Specifically, the environmentalists point to issues related to chlorpyrifos, for which DPR uses a safety factor of 1, while EPA’s safety factor under the Food Quality Protection Act of 1996 (“FQPA”) is 10. DPR, however, dismissed the environmentalists’ claims, asserting that the FQPA applies primarily to food and is not applicable for this study.
- **“Neighbors Ask City to Revoke Factory Permit,” Albuquerque Journal (June 8, 2006).** According to the article, the Mountain View Neighborhood Association (“Association”) requested that Albuquerque revoke PG Enterprises’ (“PG”) air quality permit, which was modified to increase emission levels and add new recycling equipment. PG is a concrete recycling company that collects scrap concrete and recycles it into road paving. The Association filed its appeal on the permit on unspecified environmental justice grounds based on PG’s operation of the facility, which resulted in a large amount of dust in the neighborhood.
- **“Climate: Calif. Municipal Utilities Pledge to Meet State Carbon Goals,” Greenwire (June 7, 2006). *See also* “California Municipal Utilities Adopt Greenhouse Gas Reduction Principles,” Businesswire (June 6, 2006).** According to the first article, the Board of Directors for the California Municipal Utilities Association (“Association”) passed a

resolution on June 5, 2006 to endorse the recommendations that Governor Arnold Schwarzenegger outlined for reducing carbon emissions from power generation facilities. The Association promised to do “its proportional share” to meet goals for energy efficiency. However, the Association wanted to maintain its members’ flexibility in meeting the goals for carbon reduction. Specifically, it wanted to adopt a “‘sustainable portfolio approach,’” which would “balance generation use, energy efficiency, and renewables acquisition with other factors, such as a commitment to environmental justice.” In addition, it would consider “environmental justice issues in its overall resource procurement and greenhouse gas reduction policies.”

- **“Children’s Hospital, Boston; Pediatric Tuberculosis Rates Higher Among Racial/Ethnic Minorities in California,” Genetics & Environmental Law Weekly (June 3, 2006) at 32.** According to the article, a recently published study in the *American Journal of Public Health* revealed that racial and ethnic minorities in California have higher rates of pediatric tuberculosis. Specifically, the study evaluated the association between ecological factors and rates of tuberculosis within the State and found that “[c]ensus tracts with lower median incomes, more racial/ethnic minorities, and more immigrants had higher rates of pediatric tuberculosis. Other frequently cited risk factors such as overcrowding and unemployment were not associated with increased disease after adjusting for other measures. . . . The results confirmed that tuberculosis in California continues to be a disease of poverty and racial/ethnic minorities.”
- **“U.S. Department of Transportation; Research and Demonstration Projects to Assess the Impacts of Transportation Planning and Investment Operations Have on Minority and Low-Income Populations,” Federal Grant Opportunities (June 2, 2006).** The United States Department of Transportation (“DOT”) announced that it was soliciting proposals “for up to three cooperative agreements for research to assess the impacts of transportation planning and investment operations have on minority and low-income populations under the Transportation Equity Research Program (“TERP”).” TERP’s major goal is to “focus on the impacts that transportation planning, investment, and operations have on low-income and minority populations that are transit dependent.” The cooperative agreements are for four years, and the total available funding for the first year is \$245,000. Funding for each cooperative agreement under this program will range from \$50,000 to \$500,000. Subsequent funding is authorized at \$250,000 annually, though actual funding will be based on annual appropriations. The application due date is August 7, 2006.
- **“Sending Water to Cabarrus Could Worsen Drought Restrictions; Report Looks at Effect of Proposed Transfer,” Charlotte Observer**

**(N.C. May 31, 2006) at 1B.** According to the article, a proposal to ship water from the Catawba River to Cabarrus County, North Carolina is causing controversy, since the proposal may result in longer drought restrictions for other communities that rely on the River. The proposal would benefit Concord and Kannapolis, North Carolina by providing these cities with up to 36 million gallons of water a day. According to an environmental study, the proposal would not affect the Catawba River, unless a severe drought occurred. However, due to the possibility of a severe drought, which recently occurred when a four-year drought ended in 2003, many districts in the Catawba are unwilling to share their water with other cities like Concord and Kannapolis. Concord's city manager believes that sharing the water from the Catawba River would "rebalance the scales of environmental justice," since Concord's Rocky River "carries treated sewage from upstream communities." In addition, residents in the City breathe wind-blown pollution from other counties, and the City hosts a landfill where much of the Region's garbage is buried. The State Environmental Commission is accepting public comment on the proposal and will vote on it near the end of the year.

- **"Economic and Environmental Justice Advocates Join Fight for Car-Free Central and Prospect Parks This Summer," U.S. Newswire (May 29, 2006).** According to the article, New York residents are backing a Bill, Intro 276, which would remove traffic from Central Park and Prospect Park "without impacting surrounding neighborhoods while restoring the parks as safe, healthy, car-free places of summer recreation." The article noted that economic and environmental justice groups, such as WE ACT for Environmental Justice ("WEACT") have recently lent support to the Bill, since they believe that the Bill ensures that low and middle-income New Yorkers "receive the same access to safe, healthy, and quiet places of recreation as wealthy New Yorkers." WEACT's Executive Director, Peggy M. Shepard, articulated that the Bill "puts the needs of many over the needs of the few." In addition, other environmental justice advocates assert that providing preference to the wealthy New Yorkers that drive their cars through the parks, contrary to the overwhelming majority of New Yorkers' wishes, "is unfair and undemocratic."
- **"Inviting New Orleans to Town," New York Times (May 28, 2006) at 14CN.** According to the article, the annual International Festival of Arts and Ideas ("Festival") in New Haven, which is scheduled for June 10-24, 2006, will focus on reaching out to artists in New Orleans who were affected by Hurricane Katrina. Historically, the Festival brings together artists throughout the world to display and perform their works. The focus on New Orleans is also envisioned to lead to discussions and lectures on health care, politics, and environmental justice.

- **“Neighbors’ Values Clash Over Landfill Expansion Proposal; Backers of Enlarging the Bradley Site in Sun Valley Tout Clean Power and Recycling. But Advocates for the Poor Feel Dumped Upon,” Los Angeles Times (May 28, 2006) at B1.** According to the article, debate among advocates of the poor and environmentalists over the Bradley Landfill (“Landfill”) in the East San Fernando Valley has increased. The Landfill, which is located in an area with predominantly poor residents, generates clean electrical power for 10,000 homes, but also represents a great potential health hazard due to the traffic and debris that emanates from it. Residents near the Landfill attribute numerous asthma cases of school children to the Landfill, in articulating that “their conditions are exacerbated by the [L]andfill’s proximity and by the swarms of trucks that serve it.” Waste Management, the Landfill’s owner, has attempted to tout the environmental benefits of the Landfill by distributing outreach materials and holding meetings in English and Spanish. Despite these efforts, environmental justice groups, such as One LA, however, have helped to galvanize opposition to Waste Management. They assert that Waste Management should better serve poor residents and find alternate locations, other than the Landfill, to recycle and bury trash.
- **“Study Aimed at Brightening Blighted Sun Valley,” Daily News of Los Angeles (May 27, 2006) at N1.** According to the article, a coalition of architects, urban planners, and college students have joined together to seek a solution to the industrial blight that plagues the Sun Valley area of California. Due to the “glut of polluting industries, Los Angeles has declared Sun Valley the City’s first Environmental Justice Improvement Area.” The article noted that students in Sun Valley suffer from asthma at twice the national average. The new coalition seeks to address these problems and make Sun Valley a more “aesthetically pleasing” area. It will undertake a study and develop a plan to “transform the grimy region,” which includes trash and recycling centers, auto dismantlers, parts yards, granite supplies, and chrome-plating shops. The study will take three to six months.
- **Plant’s Future is Unclear; Facility Hinges on Permit’s Approval,” Albuquerque Journal (May 26, 2006) at 1.** According to the article, Vulcan Materials Company’s (“Vulcan”) proposed emissions permit for a cement plant in New Mexico’s South Valley rests in the hands of a hearing officer, who held a three-day hearing on an appeal of the permit that residents near the proposed site had filed. While Vulcan acknowledged that legitimate concerns exist, it asserted that it was doing everything it could to be a good neighbor. The residents, however, remain concerned with the proposed cement plant. Their appeal, which was filed January 18, 2006 to the Air Quality Control Board that authorized the plant, was based on three primary factors, including environmental justice. An attorney representing the appellants stated, “[i]t is not clear whether the City does consider the amount of pollutants in a given neighborhood or



whether it is a low-income or minority community in making its decisions about a permit. . . . [T]hose things should be taken into account in light of environmental justice.”

- **“Oil Firm Charged in Downtown Goo Escape,” Daily News of Los Angeles (May 26, 2006) at N3.** According to the article, a nine-count criminal complaint was filed on May 25, 2006 against St. James Oil Co. (“St. James”) for allegedly causing an oil sludge leak that forced more than 100 Orange County, California residents to flee their downtown apartments on February 20, 2006. The criminal charges against St. James represents one of 22 environmental suits that the City Attorney’s Environmental Justice Unit filed against area polluters in May. In filing the charges, the City Attorney, Rocky Delgadillo, articulated ““most of the victims of these environmental crimes – children and families in lower-income communities – cannot protect themselves. . . . We are sending a clear signal that these communities cannot be dumping grounds for others’ poisons.”” If convicted, St. James faces a \$5,000 fine plus \$1,000 for each count of violating the Clean Water Act.
- **“Protestors Try to Stop Pentagon Blast in Nevada; Explosion Won’t be Nuclear but Foes Aren’t Reassured,” USA Today (May 25, 2006) at 3A.** According to the article, residents near a Nevada Test Site (“Site”) are attempting to block a non-nuclear blast scheduled for June. The Pentagon’s Defense Threat Reduction Agency (“DTRA”) plans to explode 700 tons of ammonium nitrate and fuel oil at the Site. However, the residents oppose DTRA’s plan for three reasons: (1) possible health hazards downwind due to the potential dispersal of radioactive soil that remained from Cold War-era atomic testing; (2) potential subsequent renewed nuclear testing; and (3) claims of the Western Shoshone Tribe that testing would violate ancestral lands. In addition, groups, such as the Nevada-based environmental justice organization Citizen Alert, are urging the government to conduct a more complete environmental impact study to ensure that residents are not disproportionately and adversely exposed to increased cancer risks due to the testing.
- **“Bait and Switch?; Did County Mislead to Get Its Way with Sewage Plant?” Post-Standard (N.Y. May 23, 2006).** The editorial calls for the *Post-Standard* to investigate how tax payer money is being spent on a controversial Midland sewage project in light of the New York State Department of Environmental Conservation’s approval of a “supposedly cheaper design.” The sewage project, which the author noted is a source of unspecified environmental racism, purportedly has resulted in a \$50 million budget overrun. The author, who apparently lives two blocks away from the sewage project site, took offense to the fact that Onondaga County officials, who identified the budget overrun, blame the residents for design delays that increased the project’s costs.

- **“Environmental Justice Panel Urges EPA to Revise Disaster Response Plans,” Inside EPA (May 23, 2006).** According to the article, a work group of the NEJAC has recommended that EPA revise its disaster response procedures to address the needs of vulnerable populations. The NEJAC work group, which was convened to address issues stemming from the Gulf Coast Hurricanes, set forth draft recommendations on May 15, 2006 on how to handle similar natural disaster situations in the future. Included among the recommendations to EPA were: examination of the process for granting waivers to environmental rules; review of disposal policies for waste and sediment; the consideration of a joint effort with the Centers for Disease Control (“CDC”) to survey the health impacts of the Hurricanes; and establishing restoration of wetlands as a top priority. Of particular note was the recommendation that EPA “revise its procedures for responding to disasters to prepare for future incidents by paying increased attention to the needs of low-income or minority residents.” Such a change, however, may result in the revision of either the National Response Plan, which directs EPA’s response to disasters, or the National Contingency Plan (“NCP”), which governs the response to hazardous releases. The report also requests EPA to clarify “its process for determining whether environmental contaminants pose risks to public health,” particularly due to the “apparent disagreement [that] exists between federal, state, and local government officials, and community and environmental organizations about the adequacy of environmental assessment and remediation activities to date.” The article noted that EPA did not comment on the report.
- **“Deception and Race Mar Midland Plant Dealings,” Post-Standard (N.Y. May 22, 2006).** According to the editorial, the author, who is a member of the Partnership for Onondaga Creek, noted her long struggle for environmental justice in Midland County, New York. The author articulated that “low-income black communities [in the area] are getting hit the hardest and most often. Over 50 South Side families were evicted from their homes and shuffled to different parts of the City. Meanwhile, the comparatively wealthier and decidedly white residents of the North Side were ‘blessed’ with a smaller facility that captures some debris but still releases large amounts of waste.” She concluded by voicing her displeasure with the fact that “the preferential treatment of the North Side’s white residents means that Midland’s predominantly black population is forced to host a much larger treatment plant.”
- **“Environmentalists, Activists Urged to Speak Up for Healthier Valley,” Fresno Bee (May 21, 2006) at B1.** According to the article, Luke Cole, the Director of the Center on Race, Poverty, and the Environment, urged environmentalists and community activists to become more vocal in their efforts to make the San Joaquin Valley a healthier place to live. Mr. Cole, who was the Keynote Speaker at a conference that the Central California Environmental Justice Network sponsored,

articulated that voicing concerns was an important step to achieving more power in addressing environmental and health problems. Another speaker noted that it was “no secret that environmental problems are more common in areas with high populations of people living in poverty, especially poor people of color.” The speaker also urged people, particularly those in poverty, to unite with a common cause to address these unhealthy environments.

- **“Dermatology; Skin Disease Common Among Hispanic Farm Workers in North Carolina, Research Shows,” Health Insurance Law Weekly (May 21, 2006) at 53.** According to the article, the Wake Forest School of Medicine issued a study that indicated that three out of four Hispanic farmworkers in North Carolina had skin disease and “need more information about how to prevent common skin conditions, as well as potentially deadly diseases such as skin cancer.” According to the lead researcher, farmworkers are particularly susceptible to skin diseases, because they “represent a medically underserved population that is at risk for both environmental and occupational health problems, as well as health problems associated with poverty.” In addition, most farmworkers are Hispanic and have limited access to health education or safety warnings due to language barriers.
- **“Activists Seek NEPA Study in Bid to Force Ban on Dental Mercury Use,” FDA Week (May 19, 2006).** According to the article, numerous public interest groups and activists, such as the Connecticut Coalition for Environmental Justice, filed a lawsuit in the United States Court of Appeals for the District of Columbia against the United States Food and Drug Administration (“FDA”) on April 27, 2006 seeking “an immediate ban on dental fillings that contain mercury.” Specifically, the lawsuit asserted that mercury from dental amalgam, which is used in fillings, represents one of the three largest sources of the neurotoxic pollutant in the United States. Moreover, the lawsuit alleges that FDA failed to consider the environmental impacts of the amalgam as the National Environmental Policy Act (“NEPA”) requires. The issue raised some environmental justice concerns as advocates asserted that “lower-income populations receive the largest share of [all fillings containing mercury], with higher income populations opting for alternatives, such as gold or ceramic crowns.” In response to allegations that it ignored its legal obligation to conduct NEPA environmental reviews, FDA asserted that the manufacturer bears responsibility to submit the results of such a study for FDA to evaluate.
- **“Democrats’ Budget Amendments to Target EPA Water, TRI Policies,” Inside EPA (May 19, 2006).** According to the article, Democrats in the House of Representatives were “planning to offer amendments to [EPA’s] fiscal year 2007 appropriations bill that would [among other things] block the Agency from implementing controversial

changes to the Toxics Release Inventory (“TRI”) reporting program.” The House of Representatives was scheduled to hear and debate the amendments on May 18, 2006, during its consideration of the Fiscal Year 2007 (“FY 2007”) budget for EPA. On May 10, 2006, \$7.6 billion was earmarked to EPA for FY 2007, which was \$55 million less than the enacted level for FY 2006. Representative Hilda Solis (D-CA) and Representative Frank Pallone (D-N.J.) cosponsored an amendment that would “prohibit EPA from spending money to implement planned changes to its TRI program.” EPA had proposed to increase the reporting threshold for most chemicals and require biennial, rather than annual, reporting to help small businesses. The proposed changes to the TRI proposal are important, because the TRI information “provides a crucial forum for citizens to learn about the pollution in their communities.” In addition, the article noted that environmentalists are supporting an amendment that Representative Alcee Hastings (D-FL) has set forth that would prohibit EPA from spending funds in violation of Executive Order 12898. The Hastings’ amendment was similar to one that was included in the appropriations bill last year. The amendment addressed the criticism that EPA had been ignoring the Executive Order. (See related articles on pages 17 and 22).

- **“Democrats Seen Leery of GHG Emissions Trading Due to EJ Concerns,” Inside Cal/EPA (May 19, 2006).** According to the article, the California Legislature is questioning whether to enact a potential carbon-credit trading program that would control greenhouse gas (“GHG”) emissions due to the increasing opposition of environmental justice groups, who believe that the program would increase negative, disproportionate impacts on at-risk communities. While supporters of Assembly Bill 32 believe that it will help reduce GHG emissions and combat California’s contribution to global warming, environmental justice advocates argue that “applying a mandatory cap to all businesses would be more effective than a cap-and-trade system, which would not reduce emissions from industries located in lower-income [environmental justice] areas already suffering from high levels of pollution. For example, a business receiving credit for reducing emissions below minimum requirements could sell its credits to a business in an [environmental justice] area, which would then not be required to reduce emissions from its facilities.” California Governor Arnold Schwarzenegger has indicated a willingness to work with Democrats on compromise language; however, the article noted that it was unclear what market-based program the Governor supported.
- **“Landfill Testing Option Offered; State Backs It, But Activists’ Lawyer Cool,” Times Picayune (May 19, 2006) at 1.** According to the article, the method for testing the safety of a landfill at Chef Menteur (“Landfill”) that New Orleans Mayor Ray Nagin had previously temporarily closed continued to represent a source of controversy. The

Landfill, which was a source of environmental justice concerns because of its location near residential areas with a large number of minorities, was closed so that it could be “tested to determine whether construction and demolition debris being deposited there pose[d] hazards to nearby residents or to the adjacent Bayou Sauvage National Wildlife Refuge.” The article stated that Waste Management of Louisiana (“Waste Management”), the Landfill’s operator, offered a new plan for testing off-site, which the Louisiana Department of Environmental Quality approved; however, opponents of Waste Management, such as the Louisiana Environmental Action Network (“LEAN”), asserted that the plan was too vague.

- **“Hub Groups Sue Feds Over BU Biolab,” Boston Herald (May 19, 2006) at 26.** According to the article, the National Institutes of Health (“NIH”) was sued on May 19, 2006 for its alleged failure to perform required environmental reviews prior to its approval of a new \$178 million high security ‘biosafety’ lab at Boston University, near the Boston Medical Center. Specifically, the lawsuit claimed that NIH “failed to conduct an ‘environmental justice’ review to see how [the lab] would impact minority groups and low-income residents.” The article noted that an injunction to stop construction of the lab was possible. NIH declined to comment on the lawsuit.
- **“Governor Names Democrat to Head State Environmental Agency,” Associated Press State and Local Wire (May 19, 2006).** According to the article, California Governor Arnold Schwarzenegger named Linda Adams as head of the California Environmental Protection Agency (“Cal EPA”). In naming Ms. Adams, a Democrat from Sacramento, to lead Cal EPA, Governor Schwarzenegger expressed hope that she would “continue his administration’s efforts to advance environmentally friendly policies while fostering economic growth.” Ms. Adams was retired; however, she formerly worked as Legislative Secretary for former Governor Gray Davis. She had negotiated key bills with the Legislature, including establishing the Country’s first environmental justice law.
- **“EPA to Include Cement Plants, Non-Utilities in NSR Enforcement Efforts,” Clean Air Report (May 18, 2006).** According to the article, a top EPA enforcement official informed the State and Territorial Air Pollution Program Administrators/Association of Local Air Pollution Control Offices (“STAPPA/ALAPCO”) that EPA will target “cement plants, glass manufacturers, and acid producers for possible violations of new source review (“NSR”) requirements” at a closed-door meeting held in early May. The new targeting strategy represents a shift in enforcement priorities, while “EPA is reportedly scrutinizing industry compliance with air toxics rules under the maximum achievable control technology (“MACT”) program.” According to the EPA official, “EPA would focus new NSR enforcement efforts on sectors found to be in ‘historic non-

compliance or lack of permitting, where enforcement might resolve [unspecified] environmental justice concerns.” Environmentalists, however, believe that EPA’s enforcement efforts would be better served on power plants, which “dwarfs other sectors in terms of potential reductions from strict application of NSR rules.”

- **“Protestors Paint Landfill Plan as Racist,” Fayette Observer (May 17, 2006).** According to the article, protestors marched at a proposed site for a landfill on May 16, 2006 in Sandyfield, North Carolina. The protest was against Red & Fred, LLC’s (“Red & Fred”) proposal “to place a landfill between two predominantly black communities – Sandyfield and East Arcadia – and Buckhead, an Indian community.” The protestors believed that Red & Fred’s plan constituted environmental racism and felt that Red & Fred, a South Carolina company, had “no reason whatsoever to place a landfill in an African-American community.” In addition, the protestors asserted that they were particularly tired “of African-American communities being dumping grounds,” and urged Red & Fred to look elsewhere. The Sandyfield Town Council had approved the landfill last year despite the residents’ opposition.
- **“Big Victory for Hunters Point Activists; As PG&E Closes Its Old, Smoky Power Plant, the Neighborhood Breathes a Sigh of Relief,” San Francisco Chronicle (May 15, 2006) at A1.** According to the article, Pacific Gas and Electric Company (“PG&E”) officially closed its power plant on Evans Avenue on May 15, 2006 to the delight of “[p]eople who live in the public housing directly across the street and other homes nearby.” The residents had organized more than 25 years ago to get rid of PG&E’s power plant, which represented a “disproportionate share of San Francisco’s heavy industry and of the City’s asthma and cancer cases.” According to a representative of Greenaction for Health and Environmental Justice, the plant signified a “symbol for environmental racism,” as most of the residents near the plant were low-income and non-white. Residents had complained for years of rampant cancer, diabetes, and asthma in the community. PG&E steadfastly denied that the plant posed a risk to public health. Upon closing the plant, PG&E has agreed to clean-up the land and make it acceptable for housing to be built.
- **“EPA Issues Envirobytes, A Summary of Issues and Events for Week Ending May 5, 2006,” States News Service (May 15, 2006).** The compilation of news items from EPA Region III’s Mid-Atlantic Newsletter included an item that mentioned that Region III recently awarded two environmental justice grants. The first grant of \$25,000 went to the Coalition to End Childhood Lead Poisoning in Baltimore, Maryland to reduce lead exposures in the City’s minority and low-income neighborhoods. The second grant of \$25,000 was given to the Southern Appalachian Labor School in Kincaid, Fayette County, West Virginia, to test low-income coal worker family camp houses in rural areas for lead

and mercury poisoning, which a coal miner might have brought home after work.

- **“Brown University, Providence; Estimated Cancer Risks and Residential Segregation Linked to Ambient Air Toxics,” Cancer Law Weekly (May 13, 2006) at 23.** According to the article, recent research indicated that “[e]stimated cancer risks and racial residential segregation could be linked to ambient air toxics exposures in [United States] metropolitan areas.” The study used modeled pollution concentration estimates from EPA and calculated “cancer risks by census tract for 309 metropolitan areas in the United States. This information was combined with socioeconomic status (“SES”) measures from the 1990 Census. Estimated cancer risks associated with ambient air toxics were highest in tracts located in metropolitan areas that were highly segregated. Disparities between racial/ethnic groups were also wider in more segregated metropolitan areas.” The study, which concluded that “disparities associated with ambient air toxics are affected by segregation and that these exposures may have health significance for populations across racial lines,” found that the segregation effect was strongest for Hispanics and weaker among whites.
- **“Louisiana to Receive More than \$2.2 Million from EPA,” States News Service (May 12, 2006).** The article set forth a press release that EPA issued announcing that seven Louisiana groups were selected to receive ten EPA Brownfields grants in the amount of \$2,262,218. EPA Region VI Administrator Richard E. Greene announced the grants on May 12, 2006. Included among the announced grants was a grant of \$200,000 to the South Central Planning and Development Commission (“Commission”) for community-wide assessment of hazardous substance sites and a grant of \$200,000 to the Commission for community-wide assessment of petroleum sites. The Commission will also use the funds for community outreach activities, including holding an environmental justice workshop.
- **“Law to Reduce Port Truck Idling Pollution Seen as Colossal Failure,” Inside Cal/EPA (May 12, 2006).** According to the article, “[a] 2002 law to reduce diesel exhaust pollution from idling heavy-duty trucks awaiting entry to California ports has failed miserably, primarily because of loopholes in the law that allow port facilities to skirt fines to entice less idling and quicker goods processing.” The law was intended to reduce diesel exhaust pollution around ports, which is one of California’s top air quality priorities, primarily by cutting the time that trucks can idle outside of terminals to no longer than 30 minutes. Reduction of diesel exhaust around ports was a top priority, particularly in light of the impacts on environmental justice communities. Efforts to revise the law have not been successful, and the article asserted that pollution will likely continue unabated.

- **“Landfill to Close for Testing; Nagin Says It’s History if Hazards Found,” Times Picayune (May 11, 2006) at 1.** According to the article, New Orleans Mayor Ray Nagin agreed on May 10, 2006 to close the Chef Menteur landfill, a controversial construction and demolition landfill in eastern New Orleans, for 72 business hours to allow environmental and community groups to determine whether the debris at the landfill posed “hazards to nearby residents as well as to the adjacent Bayou Sauvage National Wildlife Refuge.” More importantly, the article asserted that Mayor Nagin “promised to close the site if testing shows it to be ‘harmful’ to nearby communities and to push the Army Corps of Engineers [(“Corps”)], which is supervising the removal of Hurricane Katrina debris, to allow nighttime hauling of construction detritus to other landfills outside the City.” It is unclear whether the Corps will agree to haul the debris at night to farther sites due to the cost increase. The article noted that the “landfill has raised questions about environmental justice because the site is near residential areas with a large presence of minorities. Village de l’Est is a mostly Vietnamese community, and much of eastern New Orleans is majority African-American.”
- **“Panel Finishes Work on PSOP Bill,” Pueblo Chieftain (CO May 10, 2006).** According to the article, a committee crafting legislation to study the enlargement of Lake Pueblo, as well as water storage operations in the Arkansas Valley, sent a draft proposal to the Southeastern Colorado Water Conservancy District Board (“Board”) on May 9, 2006. The committee sent the Preferred Storage Options Plan (“PSOP”) legislation to the Board in anticipation of the Board’s meeting on May 18, 2006. Although the committee hoped that the Board will approve the PSOP, issues remain that may affect whether it moves forward to Congress. Of particular interest was the committee’s decision to reject Colorado Springs’ attempt to “modify an environmental justice study included in the bill that would assess the impact of water transfers on local communities.” Some argued that the farm economy in the area declined due to a variety of reasons, not just the sale of water, and asserted that the Colorado Springs’ request would require a more expansive view of environmental justice that was not necessary in this context. Another commenter requested the committee to include wording from EPA’s *Toolkit of Assessing Potential Allegations of Environmental Injustice* that the PSOP referenced to address Colorado Springs’ concerns. However, this request was disregarded, as the committee decided to leave the environmental justice section untouched.
- **“Protestors Refuse Meeting,” Inland Valley Daily Bulletin (CA May 10, 2006).** According to the article, protestors disrupted a two-hour meeting at Jurupa Valley High School that the California Air Resources Board (“Board”) and Union Pacific Railroad (“Union Pacific”) held on May 9, 2006 with residents of the community to address the residents’ concerns regarding the effects of Union Pacific’s emissions of diesel soot,



which is a toxic component of fine-particle pollution that has been linked to stunted lung development in children, on the school's students. The Board and Union Pacific held the meeting to discuss ways to reduce emissions; however, protestors like the Center for Community Action and Environmental Justice of Riverside, refused to attend and disturbed the proceedings from the outside. The protestors voiced opposition to a Memorandum of Understanding that Union Pacific and the Board entered into last June, which would reduce the amount of pollution that Union Pacific's facilities would emit. The protestors believed that the "agreement was made in secret, without public input, which sets a bad precedent for future agreements between government and industry." Union Pacific asserted that under the agreement, it must "reduce idling times on locomotives, install anti-idling devices, use low-sulfur diesel in locomotives, identify and repair smoking locomotives, conduct health risk assessments, and involve local communities by holding meetings."

- **"EPA Funding Bill Could Fall Victim to Debate Over Reducing Fuel Prices," Inside EPA (May 9, 2006).** According to the article, an election year fight is brewing over EPA's Fiscal Year 2007 ("FY 2007") appropriations bill, which is complicated further by escalating fuel prices that may hinder a "push to increase EPA's dwindling budget." Although not final, congressional sources expect that the May 10, 2006 House Appropriations Committee markup will contain "a series of amendments aimed at increasing fuel supplies, reducing energy demand, and forcing oil companies to increase royalties paid to the federal government for exploration on public lands. As a result, House sources expect most amendments will be targeted at the section of the bill that funds the Interior Department, which controls public lands and permitting programs that some lawmakers see as crucial to increasing fuel supplies." The article stated that it remains likely that Democrats will offer a series of amendments to increase EPA's budget; however increasing EPA funds would "have to be offset by other programs in the interior, environment, and related agencies appropriations bill, which is already \$145 million below the FY 2006-enacted level." During the week of May 1, 2006, the Interior Appropriations Subcommittee approved a bill that would provide EPA with \$7.6 billion for FY 2007, which was \$55 million below last year's enacted level but \$254 million above the Bush Administration's requested level. "Nevertheless, environmentalists are pushing for EPA-related amendments. The group Earthjustice asked its members on May 9, 2006 to support amendments involving environmental justice and the Clean Water Act. According to an Earthjustice release, Representative Alcee Hastings (D-FL) is likely to offer an amendment to prevent the Agency from using funds that would interfere with its goals on ensuring environmental justice. A similar plan Hastings offered last year was enacted in the FY 2006 bill."

- **“Legal Notices Public Notice,” Augusta Chronicle (GA May 9, 2006) at D1.** The article sets out a “Notice of Availability,” of a Draft Finding of No Significant Impact for the Environmental Assessment of the Proposed National Security Agency/Central Security Service Georgia Cryptologic Center, Fort Gordon, Georgia. Based on the results of the Environmental Assessment, the National Security Agency, among others, proposed to issue a Finding of No Significant Impact. The analysis considered the Proposed Action’s potential effects and reviewed three alternatives, including the No Action Alternative on ten resources areas, including environmental justice. Since no significant adverse impact to the environment is expected, the Proposed Action will not require an Environmental Impact Statement for implementation.
- **“Vacant Parcel Inflames Residents; Group Pushes Homes for Former Clinton Twp. Incinerator Site; Officials Weigh How to Sell It,” Detroit News (May 8, 2006) at 4B.** According to the article, residents of the Quinn Road neighborhood of the Clinton Township are concerned over the future of a former incinerator property in the neighborhood and have formed a political action committee to address their concerns. The committee, Protecting Our Own Rights, advocates the division of the property and its development into affordable single-family homes. The residents believe that a 24-acre parcel of the 64-acre incinerator property holds “prime development potential,” and have taken the proactive approach because they are “tired of being victims of ‘environmental racism.’” In contrast, some members of the Grosse Pointes-Clinton Reuse Disposal Authority, which owns the property, would like to keep the parcel intact; because they believe that dividing the property up will harm its resale potential.
- **“Damu Smith, Peace Activist, Dies at 54,” Associated Press State & Local Wire (May 8, 2006).** According to the article, Damu Smith, “one of Washington’s most prominent civil rights activists,” passed away on May 9, 2006 at the age of 54. Among other things, Mr. Smith “coordinated the first National People of Color Environmental Leadership Summit in 1991, helping to link the civil rights movement to the environmental movement for the first time.” In addition, Mr. Smith founded the National Black Environmental Justice Network and arranged “so-called ‘toxic tours’ of a region in Louisiana known as Cancer Alley, where people experience a high level of cancer deaths.” (See related article on pages 21-22).
- **“Clean Energy May Lie in Dirty Landfill. One’s Trash May be Another’s Fuel Source,” Rochester Democrat and Chronicle (N.Y. May 7, 2006) at 1A.** According to the article, officials from Monroe County, New York and Waste Management Inc. (“Waste Management”) intend to use millions of tons of garbage from Waste Management’s Mill Seat Landfill (“Landfill”) as a new source of fuel. The technology to

distill electricity from garbage exists, such that, last year, the Landfill “burned off enough gas to produce the same amount of energy as 110,000 barrels of oil enough to drive an average car from New York to Los Angeles and back 10,500 times.” In addition, “skyrocketing gas and oil prices and growing concern about global warming” have drawn renewed attention to green energy opportunities, such as energy from landfill gas, which supporters assert improves local air quality and reduces greenhouse gas emissions. The article noted that residents near the Landfill have a rocky relationship with the Landfill and are less convinced of the benefits of converting landfill gas to energy. It is uncertain whether the residents actually oppose the power plant or simply want some involvement in the decisionmaking process. According to one resident, the “town wants a full seat at the table. . . . It’s a question of fairness . . . of environmental justice.” The Landfill will hold a public open house event to learn more about the proposed gas-to-energy projects on July 27, 2006.

- **“Ramapoughs Weigh Response to Agency’s Report,” Record (N.J. May 5, 2006) at L9.** According to the editorial, the results of a health assessment that the Agency for Toxic Substances and Disease Registry issued the week of May 1, 2006 to the residents of Upper Ringwood, New Jersey “confirms their worst suspicions about living in the midst of tons of toxic waste for more than three decades, but it minimizes the seriousness of their worst health problems.” Accordingly, the author of the editorial asserted that it was unclear whether the residents, who include the Ramapough Mountain Indians, should be happy or sad of the results. The health assessment also revealed: low cancer risks from ingesting paint sludge; elevated lead levels; elevated cancer rates in men not women; and similar incidence of illnesses between Ringwood’s general population and those living near the dump. The author noted that the health assessment caused “more confusion than clarification,” because it “casts a shadow on what was assumed to be the cause of multiple afflictions . . . [and did] not conclude that . . . residents need to vacate the area.” The author also touched on EPA’s draft report issued on May 3, 2006 entitled, “Environmental Justice Assessment for the Ringwood Mines/Landfill Area (Passaic County, New Jersey)” (“Report”). According to the author, the Report answered allegations “that the Ramapoughs may have been victims of environmental injustice.” In noting that the Report concluded that “there is not enough evidence to say definitively whether environmental injustice played a role in the Agency’s lackadaisical pursuit of a through cleanup of [Ford Motor Company’s] industrial dumpsite,” the author concluded that “[m]inority or not, the Ramapoughs deserved the reassurance that the EPA was protecting their right to live on non-toxic soil. The environmental justice report does not excuse them from that responsibility.”

## 2. Recent Litigation.

- **Lopez v. City of Dallas, No. 3:03-CV-2223-M, (N.D. Tex. May 24, 2006).** The Plaintiffs were African-American and Hispanic owners of single family homes in the Cadillac Heights neighborhood, a predominantly African-American and Hispanic neighborhood, in Dallas Texas. Plaintiffs alleged four causes of action against the City of Dallas, Texas (“City”), including claims that the City violated provisions of the Fair Housing Act (“FHA” or “Act”). Specifically, Count 2 of the Complaint alleged that the City discriminated against the Plaintiffs by impermissibly limiting their municipal services because of their race, color, and/or national origin, in violation of FHA § 804(b), 42 U.S.C. § 3604(b). In Count 3, Plaintiffs alleged that the discrimination in municipal services, outlined in Count 2, rendered the dwelling units unavailable to future residents of Cadillac Heights due to their race, color, and/or national origin, in violation of FHA § 804(a), 42 U.S.C. § 3604(a). In its holding, the United State District Court in the Northern District of Texas, Dallas Division (“Court”), dismissed the claim under FHA § 804(b), 42 U.S.C. § 3604(b), which provides “[i]t shall be unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, or national origin.” The City had asserted that the Court should dismiss the claim, because “to be actionable, allegedly discriminatory services must be in connection with the sale or rental of a dwelling.” In agreeing with the City and dismissing this claim, the Court relied on the Fifth Circuit’s holding in *Cox v. City of Dallas*, 430 F.3d 734 (5th Cir. 2005), in which that court dismissed a claim that the defendant’s failure to enforce zoning laws that prevent illegal dumping led to the decrease in the habitability of the plaintiffs’ homes, because the plaintiffs failed to demonstrate the connection between the defendant’s action and the sale or rental of the homes. In this case, the Court held that “[a]lthough discrimination in the provision of such services may diminish property values, such discrimination does not relate to the initial or other sale or rental of Plaintiffs’ dwellings, and Plaintiffs have not claimed that such discrimination resulted in actual or constructive eviction from their homes. Those failings are fatal under *Cox*.” With regard to the claim under FHA § 804(a), 42 U.S.C. § 3604(a), the Court disregarded the City’s claims that Plaintiffs had no proof that any land was offered for sale or lease for construction of residential lands as *Cox* required. The Court held that the City’s claims were conclusory, such that the City failed to meet the burden required for it to succeed on its Motion for Summary Judgment claim. Specifically, the Court determined that it required more “competent summary judgment evidence” and could not merely rely on the City’s arguments. Accordingly, the Court declined to dismiss this claim.

3. **Regulatory/Legislative/Policy.**

The following items were most noteworthy:

A. **Federal Congressional Bills and Matters.**

- **House Bill 5386, introduced on May 18, 2006 by Congressman Charles Taylor (R-NC). *Status: Referred to Senate Committee on Appropriations on May 19, 2006.*** The Bill purports to make appropriations for the Department of the Interior, Environment, and related agencies for the fiscal year ending September 30, 2007. Title II set forth the appropriations for EPA. Of particular note was Section 201 of Title II, “General Provisions, Environmental Protection Agency,” which specified that “[n]one of the funds made available by this Act may be used in contravention of, or to delay the implementation of, Executive Order 12898 of February 11, 1994 . . . .”
- **House Resolution 827, introduced on May 19, 2006 by Congresswoman Eleanor Holmes Norton (D-DC). *Status: Referred to House Committee on Government Reform on May 19, 2006.*** The Bill honors the life and accomplishments of Damu Smith. Among other things, it noted that Mr. Smith: founded “the idea of environmental justice and played a central role in awakening African-Americans and other people of color and lower income Americans to the special importance of environmental issues, which often affect those groups disproportionately;” founded and served as the Executive Director of the National Black Environmental Justice Network, the first ever national network of African-American environmental justice activists, who, among other things, opposed contaminated water and toxic waste dumps in African-American communities; coordinated the first national People of Color Environmental Leadership Summit, which combined the civil rights and environmental movements for the first time; served as the first coordinator for environmental justice for the Southern Organizing Committee for Economic and Social Justice and “focused attention on the impact on the health and lives of poor and African-American communities in the area in Louisiana called ‘Cancer Alley’ because of its toxicity from chemical dumping and other environmentally detrimental corporate practices;” and coordinated the National Emergency Gathering of Black Community Advocates for Environmental and Economic Justice, which has been praised as the largest environmental justice conference ever held.
- ***Miscellaneous House and Senate Congressional Record Mentions of Environmental Justice include:***
  - **152 CONG. REC. E 896 (May 19, 2006).** Congressman John Conyers, Jr. (D-MI) paid tribute to Damu Smith. Among other things, Congressman Conyers praised Mr. Smith’s efforts in fighting for

environmental justice, particularly Mr. Smith's role in monitoring corporate pollution on Louisiana's Gulf Coast as the National Associate Director for Greenpeace USA. Further, Congressman Conyers voiced his admiration for Mr. Smith's efforts to "unite the civil rights and environmental movements by founding the National Black Environmental Justice Campaign, which led the nationwide fight against contaminated water and waste dumps in poor and black communities."

- **152 CONG. REC. H 2765 (May 18, 2006).** The article set forth the discussion "providing for consideration of H.R. 5386, Department of the Interior, Environment, and Related Agencies Appropriations Act, 2007." Of particular note was the testimony of Representative Alcee Hastings (D-FL) who spoke in opposition to the Bill. Among other things, Congressman Hastings noted that the Bill reflected a "lack of progress" in protecting and improving the environment. Congressman Hastings voiced his disappointment with the proposed cuts to the EPA budget, such as the proposal to cut \$199 million from the Clean Water State Revolving Fund. However, Congressman Hastings noted his appreciation that "the committee has restored the President's proposed budget cut for the Office of Environmental Justice at EPA and included the limitation language that [he] offered last year ensuring that EPA respects the needs of the environmental justice community."
- **152 CONG. REC. E 857 (May 17, 2006).** Congressman Charles B. Rangel (D-N.Y.) paid tribute to Damu Smith, who died on May 5, 2006. Congressman Rangel noted Mr. Smith's efforts to promote peace and justice and discussed his various accomplishments, including: co-founding the National Black Environmental Justice Network; joining Greenpeace USA and monitoring corporate pollution on the Gulf Coast; coordinating the first National People of Color Environmental Leadership Summit in 1991; working to establish the environmental justice movement; working as the first coordinator for environmental justice for the Southern Organizing Committee for Economic and Social Justice; and helping to "carve out the racial justice analysis that helped distinguish environmental justice from the 'green space' focus that typified environmental work of the day."
- **152 CONG. REC. E 828 (May 12, 2006).** Congresswoman Barbara Lee (D-CA) paid tribute to Damu Smith. In recounting Mr. Smith's life, Congresswoman Lee noted "his pioneering leadership in the environmental justice movement, working as the first environmental justice coordinator for the Southern Organizing Committee for Economic and Social Justice." In addition, Congresswoman Lee discussed Mr. Smith's work in organizing Toxic Tours in the South for Greenpeace to demonstrate the devastating effect of chemical pollution on low-income and African-American communities. Finally, Congresswoman Lee pointed out that in 1999, Mr. Smith "coordinated the largest environmental justice conference ever held, an event which

led to the formation of the National Black Environmental Justice network, which was the first ever network of Black environmental justice activists, and of which he served as the Executive Director.”

- **Federal Register Notices.**

- **EPA, National Emission Standards for Hazardous Air Pollutants for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry, 71 Fed. Reg. 34,422 (June 14, 2006).** EPA announced that it was proposing to amend the National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for the synthetic organic chemical manufacturing industry (“SOCMI”), otherwise known as the hazardous organic NESHAP (“HON”). The rule established maximum achievable control technology standards to regulate the emissions of organic hazardous air pollutants (“HAP”) from production processes at major sources. Based on its findings from a residual risk and technology review, EPA proposed two options for emission standards for new and existing SOCMI process units. The first proposed option would impose no further controls. The second would provide further reductions of organic HAP at certain process units. This option would protect public health with an ample margin of safety and prevent adverse environmental impacts. With regard to environmental justice, the notice asserted that it addressed the environmental justice priority of reducing exposure to air toxics. It noted that “[s]ince HON facilities are located near minority and low-income populations, [EPA] request[s] comment on the implications of environmental justice concerns relative to the two options proposed. While no exposed person would experience unacceptable risks under either of the proposed options, the distribution of risks is lower under option 2 than option 1 . . . [and] the distributional impacts of the cost of option 2 were not quantified in our economic analysis.” EPA seeks comments by August 14, 2006.
- **DOD, Intent to Prepare a Draft Supplement to the Environmental Impact Statement to Evaluate Construction of Authorized Improvements to the Federal Pascagoula Harbor Navigation Project in Jackson County, MS, 71 Fed. Reg. 34,320 (June 14, 2006).** The United States Army Corps of Engineers (“Corps”), Mobile District, of the United States Department of Defense (“DOD”) announced its intent to prepare a Draft Supplement to the Environmental Impact Statement (“EIS”) to address the “potential impacts associated with construction of authorized improvements to the Federal Pascagoula Harbor Navigation Project in Jackson, Mississippi.” The Draft Supplement EIS will evaluate two alternative plans, which are the

“No Action” plan and a plan that would widen and deepen the authorized project dimensions. The Draft Supplement EIS will analyze potential social, economic, and environmental impacts, such as environmental justice, to the local area resulting from construction of the authorized improvements.

- **DOI, San Luis Drainage Feature Reevaluation, Alameda, Contra Costa, Fresno, Kern, Kings, Merced, San Joaquin, San Luis Obispo, and Stanislaus Counties, CA, 71 Fed. Reg. 34,161 (June 13, 2006).** The Bureau of Reclamation (“Bureau”) of the United States Department of Interior (“DOI”) announced that it has prepared a Final EIS for the San Luis Drainage Feature Reevaluation. The Final EIS was prepared to meet the requirement of identifying a preferred alternative in the Final EIS, which evaluated the action to plan and construct a drainage system for the San Luis Unit. The Final EIS evaluated seven Action Alternatives, including the No Action Alternative. Among other things, the Final EIS considered environmental justice. The Bureau will complete a Record of Decision (“ROD”), which will identify the action to be implemented. The ROD will be issued at least 30 days after the release of the Final EIS.

- **DOT, Statewide Transportation Planning; Metropolitan Transportation Planning, 71 Fed. Reg. 33,510 (June 9, 2006).** The Federal Highway Administration (“FHWA”) and the Federal Transit Administration (“FTA”) of the United States Department of Transportation (“DOT”) jointly issued this proposed revision of regulations “governing the development of metropolitan transportation plans and programs for urbanized areas, State transportation plans and programs and the regulations for Congestion Management Systems.” FHWA and FTA request comments by September 7, 2006. The proposal addressed two statutory changes that have occurred recently and would bring both agencies’ regulations up to date. With regard to Executive Order 12898, the FHWA and FTA “have preliminarily determined that this proposed rule does not raise environmental justice issues. The agencies request comment on this assessment.”

- **HUD, Notice of Intent to Prepare Draft Environmental Impact Statement for Westpark, Bremerton, WA, 71 Fed. Reg. 32,998 (June 7, 2006).** The Department of Housing and Urban Development (“HUD”) announced its intent to prepare an EIS for the redevelopment of the Westpark public housing community in Bremerton, Washington. The proposed project represents an action that may potentially affect the quality of the human environment; therefore, an EIS will be prepared, which will look at, among other things, environmental justice. Comments on the scope of the EIS are being received. Comments received by June 28, 2006 will be considered in preparing the Draft EIS.



- **EPA, Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for G-P Gypsum Corporation; and Request for Reconsideration of Order Regarding Eastman Kodak Company, Kodak Park Facility, 71 Fed. Reg. 32,084 (June 2, 2006).** EPA announced two decisions from its Administrator. Of particular interest was the decision to partially grant and partially deny a citizen petition that the South Jersey Environmental Justice Alliance (“SJEJA”) submitted on September 14, 2005, which requested EPA to object to an operating permit that the New Jersey Department of Environmental Protection (“Department”) issued to G-P Gypsum Corporation (“Gypsum”). Included among the allegations that SJEJA used to persuade EPA to object to the issuance of the Title V operating permit to Gypsum was that the Department failed to adequately address unspecified environmental justice issues.
- **DOT, Preparation of a Supplemental Draft Environmental Impact Statement on East-West Corridor Transit Improvements in Miami-Dade County, FL, 71 Fed. Reg. 30,014 (May 24, 2006).** FTA announced its intent to prepare a Supplemental Draft Environmental Impact Statement (“SDEIS”) for the proposed East-West Transit Corridor Study in Miami-Dade County, Florida, between Florida International University and the Miami Intermodal Center at Miami International Airport. The proposed transit alternative will serve the airport and other portions of Miami. It would provide an additional means of transportation within and through the heavily-congested East-West Corridor and improve accessibility to major activity centers in the corridor. The SDEIS will evaluate at least three alternatives, which are the No-Build Alternative, Build Alternative, a Transportation System Management Alternative, and any reasonable alternatives discovered during the public scoping process. Comments are due on the scope of the alternatives and the impacts to be considered, such as environmental justice, by June 30, 2006.
- **DOE, Big Stone II Power Plant and Transmission Project Draft Environmental Impact Statement (“DOE/EIS-0377”), 71 Fed. Reg. 29,617 (May 23, 2006).** The United States Department of Energy announced that the Draft Big Stone II Power Plant and Transmission Project (“Project”) EIS was available for public review and comment. The Draft EIS discussed the environmental impacts of constructing and operating the proposed Project, which represented “the only reasonable alternative for the proposed plant that meets the co-owners’ needs and objectives to provide reliable, cost-effective base-load energy to the co-owner utilities.” Among other things, the Draft EIS evaluated the Project’s environmental impacts, which includes environmental justice. Public comments on the Project are due by July 3, 2006.

- **DOT, Intent to Prepare an Environmental Impact Statement for Major Transit Improvements in the University Corridor of Metropolitan Houston, TX, 71 Fed. Reg. 29,380 (May 22, 2006).** FTA announced its intent to prepare an EIS to evaluate proposed public transportation improvements in the Houston metropolitan area known as the University Corridor, which extends from the University of Houston, Central Campus, to the Uptown/Galleria area in Southwest Houston. Specifically, the proposal would construct an electric-powered light rail transit line on one of several possible alignments in the Corridor. The proposal seeks to improve the transit connectivity of major population, employment, and entertainment centers. The EIS will evaluate numerous transit alternatives, including a Transportation Systems Management Alternative, various Build Alternatives, and any additional alternatives generated in the Scoping process. Comments on the scope of the EIS, which will address environmental justice, are due by July 14, 2006.
- **DOD, Availability of Draft Environmental Impact Statement for the Proposed Construction of a Dredged Material Containment Facility in the Patapsco River, at Masonville, Baltimore City, MD, 71 Fed. Reg. 29,128 (May 19, 2006).** The Corps, Baltimore District has prepared a Draft EIS for the Maryland Port Administration's proposed construction of a dredged material containment facility. The preferred alternative is to construct a stone, sand, and cofferdam structure that would impact approximately 131 acres of waters in the United States. Comments on the Draft EIS are due before July 7, 2006. Environmental justice represents one of the relevant factors that the proposal that will consider.
- **EPA, Aldicarb Risk Assessment; Notice of Availability and Risk Reduction Options, 71 Fed. Reg. 28,693 (May 17, 2006).** EPA announced the availability of its Health Effects Risk Assessment and related documents for the carbamate pesticide aldicarb. EPA had previously released its Environmental Risk Assessment for public comment. In soliciting public comment on these documents by July 17, 2006, EPA requested that the public suggest risk management ideas or proposals to address the identified risks. EPA is developing a Reregistration Eligibility Decision ("RED") for aldicarb through a modified public participation process to ensure that all pesticides meet current health and safety standards. To help address potential environmental justice issues, EPA seeks, among other things, "information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to aldicarb, compared to the general population."

- **EPA, National Pollution Prevention and Toxics Advisory Committee (“NPPTAC”); Notice of Public Meeting, 71 Fed. Reg. 28,692 (May 17, 2006).** Pursuant to the Federal Advisory Committee Act (“FACA”). EPA announced a two-day meeting of the NPPTAC. The meeting was held on June 14-15, 2006 and was to provide advice and recommendations to EPA regarding the overall policy and operations of the programs of the Office of Pollution Prevention and Toxics (“OPPT”). Of particular note, the notice articulates that the meeting was of particular interest to individual groups concerned with environmental justice.
- **EPA, National Environmental Justice Advisory Council; Notification of Public Meeting and Public Comment,” 71 Fed. Reg. 28,324 (May 16, 2006).** Pursuant to FACA, EPA announced that the NEJAC will meet on June 20-22, 2006 to “provide independent advice to the Administrator on areas that may include among other things, ‘advice on EPA’s progress, quality and adequacy in planning, developing, and implementing environmental justice strategies, projects, and programs’ relating to environment justice.” In addition, the meeting shall analyze the mechanisms to most effectively: “(1)[e]nsure continuation of timely, relevant, and cogent public policy advice on environmental justice issues/concerns; (2) enable impacted communities to continue to raise concerns to government agencies; (3) support continued partnership-building and problem-solving capacity among EPA’s regulatory partners and other environmental justice stakeholders; and (4) promote opportunities for training and sharing lessons learned for all stakeholders involved in the environmental justice dialogue.” In addition, the NEJAC will discuss two draft reports: “(1) the Gulf Coast Hurricanes Workgroup’s draft advice and recommendations on the environmental justice issues related to natural disasters, such as Hurricanes Katrina and Rita; and (2) the Waste and Facility Siting Subcommittee’s draft report, ‘Unintended Impacts of Redevelopment and Revitalization Efforts in five Environmental Justice Communities.’”
- **NRC, USEC Inc.’s Proposed American Centrifuge Plant; Notice of Availability of Final Environmental Impact Statement, 71 Fed. Reg. 28,054 (May 15, 2006).** The United States Nuclear Regulatory Commission (“NRC”) announced that it issued a Final Environmental Impact Statement (“FEIS”) for the USEC Inc. (“USEC”) license application, from August 23, 2004, to possess and use source, byproduct, and nuclear materials at its proposed American Centrifuge Plant (“ACP”) near Piketon, Ohio. Specifically, USEC proposes to use gas centrifuge technology to enrich the uranium-235 isotope and use this enriched uranium to manufacture nuclear fuel for commercial nuclear power reactors.

The FEIS, which considered and assessed, among other things, environmental justice, “reflects the final analysis of environmental impacts of USEC’s proposal and its alternatives, including the consideration of public comments received by NRC.”

- **EPA, Environmental Impact Statements and Regulations; Availability of EPA Comments, 71 Fed. Reg. 27,714 (May 12, 2006).** EPA announced the availability of its comments pursuant to the Environmental Review Process (“ERP”), as required by Section 309 of the Clean Air Act (“CAA”) and Section 102(2)(c) of the National Environmental Policy Act (“NEPA”). With regard to the draft Environmental Impact Statements, EPA raised environmental concerns with the “East Locust Creek Watershed Revised Plan,” in Sullivan and Putnam Counties, Missouri, due to the fact that the Draft Environmental Impact Statement failed to fully describe the mitigation for the wetlands impacts of the project. EPA recommended that the FEIS “expand also the discussion of social, cultural, and Environmental Justice impacts.”
- **DOT, Record of Decision, 71 Fed. Reg. 27,772 (May 12, 2006).** The Federal Aviation Administration (“FAA”) of DOT issued a Record of Decision, which contained the statement of decision, the alternatives considered, and the factors that were used to make the decision. The Record of Decision provided final FAA approval for a program to license three horizontal launch concepts, reentries of reentry vehicles with both powered and unpowered landings, and the operation of facilities that support these activities. With regard to environmental justice, negligible impacts were expected with regard to FAA’s action.
- **DOT, Finding of No Significant Impact, 71 Fed. Reg. 26,593 (May 5, 2006).** FAA prepared an Environmental Assessment (“EA”) to evaluate the Oklahoma Space Industry Development Authority’s proposal to operate a commercial launch facility at the Clinton-Sherman Industrial Airpark (“CSIA”), which is adjacent to the town of Burns Flat, Oklahoma. Among other things, the EA evaluated the potential environmental impacts of launches of three types of horizontally launched suborbital vehicles proposed to be launched from the CSIA. Upon review and analysis of currently available data and information, the FAA determined that issuance of a launch site operator license for the CSIA would not significantly affect the quality of the human environment within the meaning of NEPA. Accordingly, preparation of an Environmental Impact Statement (“EIS”) was not required, and a Finding of No Significant Impact was issued. Among other things, the EA found that minority populations and low-income communities would not experience disproportionate adverse impacts from the proposed action. “Based on Census data, there is no evidence of an environmental justice population of concern

living within the region of influence. Furthermore, health and environmental impacts from the proposed action and alternatives are not expected to exceed applicable thresholds of significance for any impact category.”

- **DOD, Intent to Prepare an Environmental Impact Statement for the Dam Safety Assurance Evaluation Report, Dover Dam, City of Dover, Tuscarawas County, OH, 71 Fed. Reg. 26,479 (May 5, 2006).** The Corps, Huntington District, announced that it will prepare an EIS, pursuant to NEPA, to “disclose potential impacts to the natural, physical, and human environment resulting from modifications to Dover Dam. The high hazard dam does not conform to current design standards related to stability and sliding during a probable maximum flood. Modifications will be performed so the Dam will meet these standards.” The EIS and Evaluation report will consider numerous factors, including environmental justice. The EIS and Evaluation Report will then recommend any necessary modifications that will ensure “the long-term safe performance of the structure as originally intended.”

B. **State Congressional Bills and Matters.**

- **California, Assembly Concurrent Resolution 142, introduced on April 6, 2006 by Assemblyman Jenny Oropeza (D-District 55). Status: Adopted and referred to Senate on May 18, 2006. Referred to Senate Committee on Rules.** The Bill proposed to designate the Interstate 5 and Interstate 710 interchange in Los Angeles as the Marco Antonio Firebaugh Interchange. In addition, the Bill requests that the Department of Transportation determine the cost of appropriate signs that reflect this designation and, subsequently, to erect those signs. According to the Bill, Mr. Firebaugh passed away at the age of 39, while running for election to the California State Senate. He had previously served the State Assembly from 1998 to 2004 for the 50th District in Southeast Los Angeles County, after being elected at the age of 32. Mr. Firebaugh was particularly recognized for his “impressive legislative and advocacy record on behalf of California’s working families and their children” and was a champion for the Latino community. In addition, Mr. Firebaugh “demonstrated outstanding leadership in introducing legislation aimed at improving the lives of immigrants and low-income communities that are most severely impacted by air pollution.” Finally, the Bill acknowledged Mr. Firebaugh’s recognition of the importance of environmental justice issues,” which led him to author “air quality legislation that provides funding for the State’s most important air emissions reduction programs” and “ensures that state funding be targeted to low-income communities that are most severely impacted by air pollution.”

- **California, Senate Bill 1205, introduced on January 25, 2006 by Senator Martha M. Escutia (D-District 30). *Status: Referred to Assembly Committee on Judiciary and Assembly Committee on Natural Resources on June 8, 2006.*** This Bill, the “Children’s Breathing Right’s Act,” would increase the maximum civil penalties and criminal fines for specified violations of air pollution laws. The Bill seeks to “improve the enforcement of [the State’s] air quality laws and ensure that penalties are not so low as to be a minor inconvenience to a serious and chronic air polluter, [the State’s] children’s right to clean and healthy air can be better protected, as can the right to environmental justice.” In addition, the Bill would create a new category of “serious and chronic violators,” as well as mandate the establishment of a state website to track violations. A percentage of the penalties collected would be used to fund children’s health and asthma initiatives.
- **California, Senate Bill 1377, introduced on February 21, 2006 by Senator Nell Soto (D-District 32). *Status: In Assembly. Read first time. Held at Desk on May 31, 2006.*** This Bill will allow the State Air Resources Board to enter into a voluntary agreement, including a memorandum of understanding, with a public or private entity regarding matters involving the control of vehicular air pollution. Any agreement to reduce emissions cannot be longer than two years in duration. Before ratifying an agreement, the State Board shall, among other things, prepare a written report that will include an assessment of the local cumulative impacts and environmental justice implications.
- **California, Senate Bill 1505, introduced on February 23, 2006 by Senator Alan S. Lowenthal (D-District 27). *Status: Referred to Assembly Committee on Transportation on June 12, 2006.*** This Bill declares the Legislature’s intent to increase the production and use of hydrogen-based alternative fuels by adopting the Hydrogen Highway Network Blueprint Plan (“Plan”) that the California Environmental Protection Agency developed. In addition, the Bill provides that the Plan will be implemented in a clean and environmentally responsible manner. The Bill would require the State Air Resources Board to adopt regulations that will ensure that state funding for the production and use of hydrogen contributes to the reduction of greenhouse gas emissions, criteria air pollutants and toxic air contaminants. The Bill includes, among other things, a requirement that the California Environmental Protection Agency’s Environmental Justice Advisory Committee meet at least twice annually to discuss the production and distribution of hydrogen fuel in the State.
- **California, Assembly Bill 1244, introduced on February 22, 2005 by Assembly Member Lois Wolk (D-District 8). *Status: Rereferred to Senate Committee on Natural Resources and Water on May 3, 2006.***

The Bill establishes a California Water Commission, consisting of seven (7) appointed public members, to provide oversight for the development and implementation of state water policy. Among other things, the newly formed Commission “will assess the overall achievement of state objectives in the implementation of the California Water Plan [(“Plan”)] and the Cal-Fed Bay-Delta Program [(“Program”)]; review the Program priorities of state agencies with jurisdiction over any subject area included in the Plan and Program; make recommendations to the legislature regarding the accomplishment of certain goals and objectives, needed policy changes, and budgets for implementing agencies; and review and approve prescribed long-term plans and three-year implementation plans for the Plan and Program.” The Bill also would require implementing agencies to submit an Annual Program Plan and Proposed Budget (“Annual Plan and Budget”) for the following budget year. The Annual Plan and Budget will, among other things, “include a strategy and proposed budget . . . developing strategies for incorporating tribal and environmental justice interest.” In addition the implementing agencies “shall develop comprehensive tribal and environmental justice work plans, including specific goals and objectives and projected expenditures that address all program areas.”

- **California, Assembly Bill 2144, introduced on February 21, 2006 by Assembly Member Cindy Montanez (D-District 39). Status: Rereferred to Senate Committee on Environmental Quality on June 8, 2006.** The Bill amends certain sections of California’s Health and Safety Code, while adding a section to the State’s Water Code. Specifically, the Bill requires a bona fide purchaser, innocent landowner, or contiguous property owner, who seeks immunity from response costs or damage claims relating to a site in an urban landfill area, to enter into an agreement with an agency to perform a site assessment and, if necessary, prepare and implement a response plan. The Bill defines “agency” to mean the Department of Toxic Substances Control, the State Water Resources Control Board, or a California regional water quality board. Included among other Bill requirements was the mandate that the agency consider environmental justice issues for the most-impacted communities, including low-income and racial minority populations, before taking action on the response plan.
- **California, Assembly Bill 2490, introduced on February 23, 2006 by Assembly Member Ira Ruskin (D-District 21). Status: In Senate. Read first time. To Senate Committee on Rules on June 1, 2006 for assignment.** This Bill would enact the California Toxic Release Inventory Program of 2006 to require Cal-EPA to establish the California Toxic Release Inventory (“TRI”) Program (“Program”) on, or before, July 1, 2007, if the Secretary of Cal-EPA determines that a specified change has been made to the federal Emergency Planning and Community Right-to-

Know Act of 1986 (“EPCRA”), which would make EPCRA less stringent or would reduce or lessen any reporting requirement. The Program would impose the same, or more stringent, requirements as EPCRA. The Bill responds to EPA’s proposed changes to its TRI regulations. Specifically, EPA promulgated a notice in the *Federal Register* on October 4, 2005 that proposed to raise the threshold reporting amounts of toxic chemicals and decrease the frequency of required reporting. Since the proposed changes would, among other things, “create further environmental justice challenges by placing an unfair burden for residents in low-income areas, where chemical plants and other polluters are often located,” the Bill was introduced to ensure that the “citizens of California have access to timely and accurate data about toxic releases.” The Bill “would require the Agency, no later than one calendar year after the date when the Secretary makes that determination, to adopt regulations to implement the program that are identical in application to the federal regulations in effect on January 1, 2006.”

- **Florida, House Bill 7131, introduced on March 15, 2006 by the House Committee on Environmental Regulation. Status: Enrolled on May 4, 2006.** The Bill amends various provisions of the Florida Brownfield Redevelopment Act. The Bill increases the amount of credit, from 35 percent to 50 percent, that may be applied against intangible personal property tax and corporate income tax for the voluntary cleanup costs of a contaminated brownfield or dry-cleaning site. In addition, the Bill increases the percentage and amount of tax credit that a taxpayer may receive in the final year of the cleanup as an incentive to complete the cleanup. Finally, the Bill also amended Section 376.80(4), Brownfield Program Administration Process, of the Florida Statute to require “[l]ocal governments or persons responsible for rehabilitation and redevelopment of brownfield areas [to] establish an advisory committee or use an existing advisory committee that has formally expressed its intent to address redevelopment of the specific brownfield area for the purpose of improving public participation and receiving public comments on rehabilitation and redevelopment of the brownfield area, future land use . . . community safety, and environmental justice.”
- **Maryland, Senate Bill 350, introduced on January 30, 2006 by Senator Lisa A. Gladden (D-District 41). Status: First Reading in Senate Education, Health, and Environmental Affairs Committee on March 20, 2006. See also Maryland, House Bill 412, introduced on January 27, 2006 by Representative Nathaniel T. Oaks (D-District 41). Status: Enacted.** This Bill establishes a Task Force on Minority Participation in the Environmental Community. It requires the Task Force to evaluate and make recommendations regarding methods of improving minority participation in the environmental community. In addition, the Task Force should improve communication to minority communities and



encourage community participation on, among other things, environmental justice issues affecting their communities. Further, the Task Force should improve the flow of information and services into minority communities regarding land conservation and natural resource protection issues. The Task Force should include, among others, one representative from Maryland's Commission on Environmental Justice and Sustainable Communities.

- **Massachusetts, Senate Bill 2571, introduced on June 1, 2006 by the Senate Ways and Means Committee. Status: *Passed to be Engrossed on June 1, 2006.*** The Bill relates to expediting and streamlining the permitting process in the Commonwealth. Of particular note is the addition of a clause that would “develop state-wide policies to promote environmental justice in the commonwealth and protect and regulate the use of areas of critical environmental justice concern in the commonwealth.” The Bill defines, among other things, environmental justice, environmental justice population, and minority. In addition, the Bill provides for the establishment of an environmental justice program that will, among other things, identify environmental justice populations, provide introductory environmental justice training, establish multiple information repositories in environmental justice neighborhoods, direct the Department of Environmental Protection to prioritize environmental justice neighborhoods and consider environmental justice in establishing priorities, and direct the State's Environmental Policy Act Office to develop enhanced public participation for certain projects within defined areas of environmental justice populations.
- **Rhode Island, Senate Bill 3113, introduced on May 18, 2006 by Senator V. Susan Sosnowski (D-District 37). Status: *Referred to House Committee on Environment and Natural Resources on May 31, 2006. See also Rhode Island, House Bill 8239, introduced on June 14, 2006 by Congressman Gordon D. Fox (D-District 4). Status: *Referred to House Committee on Environment and Natural Resources on June 14, 2006. Scheduled for hearing and/or consideration on June 20, 2006.**** The Bill would amend the Industrial Property Remediation and Reuse Act (“Act”) and take effect upon passage. The Bill sets forth the Act's policies, which include: controlling and eliminating contamination at industrial properties in a way that is fair, consistent, and compatible with the current and reasonably foreseeable future use of the property; removing environmental barriers to economic redevelopment and beneficial reuse of contaminated properties; providing business with opportunities to realistically manage their environmental liabilities; encouraging voluntary and cooperative clean-up actions to the greatest extent possible; and reasonably minimizing transaction costs to the extent feasible to facilitate appropriate reuse of contaminated properties. The Bill contains a section on “environmental equity and public participation,”

which, among other things provides that the “department of environmental management shall consider the effects that clean-ups would have on the populations surrounding each site and shall consider the issues of environmental equity for low income and racial minority populations. The Department of Environmental Management will develop and implement a process to ensure community involvement throughout the investigation and remediation of contaminated sites.”

- **State Regulatory Alerts.**

- **Alaska, 2006 Reg. LEXIS 25098 (May 26, 2006).** Alaska’s Department of Public Resources issued a public notice that requested public comments by June 26, 2006 on the Northeast National Petroleum Reserve-Alaska (“Alaska”) Leasing Program. Specifically, the United States Department of the Interior’s Bureau of Land Management (“BLM”) proposed to amend its Alaska Integrated Plan/Environmental Impact Statement (“IAP/EIS”) to consider: leasing portions of lands currently not available or under a No Surface Activity restriction for oil and gas development; or developing performance-based lease stipulations to provide BLM with greater flexibility in protecting surface resources from the impacts of oil and gas activities. BLM’s Final Amended IAP/EIS set forth four alternatives. Among other things, the EIS evaluated the potential effects of the alternatives on environmental justice.